

State of Montana

Marc Racicot, Governor



Department of Revenue

Mary Bryson, Director

Natural Resource and Corporation Tax Division

August 1, 1997

David S. Guzy, Chief
Rules and Publications Staff
Royalty Management Program
Minerals Management Service
P. O. Box 25165, MS 3101
Denver, Colorado 80225


Dear Mr. Guzy:

The State of Montana appreciates being given the opportunity to comment on the proposed rule for valuing crude oil production on Federal lands. We concur with the comments submitted by the State and Tribal Royalty Audit Committee (STRAC) on this proposed rule. In addition, we offer the following comments.

Montana strongly supports eliminating reliance on posted prices to establish royalty value. In addition, Montana strongly supports MMS' proposal to eliminate use of comparable sales to determine values for several reasons: 1) sufficient information is not readily available for timely payment of royalties, 2) data in MMS' system is unverified, incomplete (no non-Federal data) and proprietary, and 3) additional complications occur when reliance is placed on values for other oil being disposed of in the field or area. Operators in Montana have begun to argue that because working interest owners in captive markets allow for disposition of small amounts of crude oil at prices operators contract for with their affiliates, those prices should be acceptable for valuing production for tax purposes.

MMS must take steps to respond to current marketing arrangements in order to assure that appropriate value is received. Through discussions with marketing experts, Montana has become aware that producers sell to transporters in two-contract, contingent arrangements whereby the transporter sells the crude back to the producer at the desired location. If MMS is not aware of the second contract or the prevalence for this type of arrangement in the marketplace, the first contract, on appearance an arm's-length contract, might be deemed to establish royalty value. This should not be allowed.

Sincerely,


Don Hoffman, Bureau Chief
Natural Resource Bureau

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